

LABOR RELATIONS

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TRAINING OBJECTIVES

- Review and Understand A Supervisor's Rights and Obligations
- Review and Understand the Union's Role
- Familiarization With the Statute, Regulations, and Negotiated Agreements
- Know & Utilize Your Support Staff
- Understand Complaint Processes

THE MANAGER

Management's Rights, Roles
and Responsibilities

MANAGEMENT'S RIGHTS

- Specified in 5 USC 7106
 - Also restated in all Negotiated Agreements
- Two Types of Rights
 - Reserved
 - Permissive
- The Reserved Right Under 7106(a) to
 - Determine mission, budget, organization, number of employees, and internal security practices.

MANAGEMENT'S RIGHTS

- Hire, assign, direct, layoff, and retain employees or to suspend, remove, reduce in pay or grade or take other disciplinary action
- Assign work, make determinations with regard to contracting out, determine personnel to conduct agency operations
- Make selections from
 - among properly ranked and certified candidates
 - any other appropriate source
- Take whatever actions are necessary to carry out the agency mission in an emergency

MANAGEMENT'S RIGHTS

- The Permissive Right Under 7106(b) to Negotiate
 - At the election of the Agency - number, types and grades of positions assigned to organizational subdivision, work project or tour of duty
 - On the technology, methods and means of performing work
 - On procedures the agency will observe in exercising authority
 - Appropriate arrangements for employees adversely impacted by the exercise of management's authority

MANAGEMENT'S RIGHTS

- Management, even in the exercise of their reserved rights, still has to negotiate Impact & Implementation (I & I) with the union.
- Many otherwise non-negotiable issues are considered negotiable if they provide an appropriate arrangement for adversely impacted employees
- Call for Advice and Assistance

THE MANAGER'S ROLE

- On the Front Line
 - Day to Day Interaction With Employees and Union Officials
- Administer Law, Regulations, Rules and The Negotiated Agreement
 - Approve/Deny leave and other absences
 - Assign work
 - Order/Approve travel, training
 - Maintain discipline

MANAGER'S ROLE (cont'd)

- Hire, promote, detail, reassign
- Performance Appraisals
- Time & Attendance certification
- Give awards, QSIs, other recognition
- Counsel employees
- Provide Career guidance
- Office layout, desks, equipment, phones etc.
- Safety of employees

MANAGER'S ROLE (cont'd)

- Hear, Adjudicate & Resolve Complaints
 - Grievances
 - EEO Complaints
 - ULPs
- Make Everybody Happy, Content and Productive

THE UNION

Their Rights, Roles and
Responsibilities

UNION'S RIGHTS

- Specified in 5 USC 7114(a)
 - Also restated in all Negotiated Agreements
- The Exclusive Representative of the Employees in the Unit - Entitled to Act For and Negotiate Collective Bargaining Agreement on Behalf of All Unit Members
- Represents All Without Discrimination or Regard to Membership

UNION'S RIGHTS (cont'd)

- To Be Present at Any Formal Discussion
- To Present Their Views To Management
- To Assist Employees in Grievances and Appeals Process
- To Question the Interpretation of Any Law, Rule or Regulation

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FORMAL DISCUSSIONS & “WEINGARTEN” RIGHT

FORMAL DISCUSSIONS

- Specified in 5 USC 7114(a)(2)(A).
 - Also detailed in Negotiated Agreements
- Guarantees the Union's right to be present during **formal discussions**

FORMAL DISCUSSIONS

Section 7114(a)(2) of 5 USC Chapter 71:

An exclusive representative of an appropriate unit in an agency **shall be given the opportunity** to be represented at –

(A) **Any formal discussion** between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment.

FORMAL DISCUSSIONS

- **Positive Management Obligation** to Invite the Union to Any **Formal Discussion**
- Key Characteristics to Determine if a Meeting is a **Formal Discussion**:
 - WHO'S THERE?:
 - One or more Agency representatives:
 - **Supervisor**
 - **Management official**
 - **Second Line Supervisor**
 - **Personnelist**
 - **Attorney**
 - **I.G.**
 - One or more bargaining unit employees

FORMAL DISCUSSIONS

- WHAT'S THE SUBJECT?:
 - Any meeting discussing a grievance with a bargaining unit employee
 - If employee chooses self representation, union must be invited to any meetings
- Working Conditions
- General conditions of employment
- Personnel policies and practices
- **Normal office talk is not a formal discussion**

FORMAL DISCUSSIONS

- Things the FLRA Will Consider:
 - Who held the meeting - 1st line supervisor or higher?
 - Did any other management reps attend?
 - Where did the meeting take place?:
 - Supervisor's office
 - Conference Room
 - Employee's desk
 - How long did the meeting last?

FORMAL DISCUSSIONS

- How was the meeting called?:
 - Formal written announcement
 - Scheduled in advance
 - Spontaneously
- Was there a formal agenda for the meeting?
- Was employee attendance mandatory?
- How was the meeting conducted?:
 - Were minutes kept
 - Was there a sign-in sheet

“WEINGARTEN” RIGHT

- Specified in 5 USC 7114(a)(2)(B).
 - Also detailed in Negotiated Agreements
- Guarantees an employee's right to union representation
- Employees are informed of the “Weingarten” Right annually

“WEINGARTEN” RIGHT

Section 7114(a)(2) of 5 USC Chapter 71 states that:

An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at--

(B) Any examination of an employee in the unit by a representative of the agency in connection with an investigation if--

(i) The employee reasonably believes that the examination may result in disciplinary action against the employee; and--

(ii) The employee requests representation

“WEINGARTEN” RIGHT

- Examinations/Investigations:
 - Seeking information
 - Asking questions
 - Base conclusions/actions on results
- Counseling:
 - Providing information
 - Instructing, reminding, warning
 - Conclusion already reached, actions taken

“WEINGARTEN” RIGHT

- **IF** Employee Invokes Right of Representation Under Weingarten
- **YOU** Must Immediately:
 - Terminate investigation or,
 - Adjourn until representative is available or,
 - Give employee clear choice between
 - Not having an interview or
 - Continuing without representation
- Up to Employee to Request Representation
- Not applicable to Performance Counseling or Issuance of Notice of Discipline.

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HANDLING GRIEVANCES

An Opportunity to Excel

Negotiated Grievance Procedure

Labor relations law requires...

a mechanism for employees, unions, and management to work out their problems in a structured and effective way.

GOAL: Resolve conflict at the LOWEST level

What is a Grievance?

- An employee or union **complaint** relating to:
 - Employment
 - Office arrangement
 - Work practices
 - Personnel matters
 - Interpretation or claim of contract breach
 - Violation, misinterpretation or misapplication of any law, rule or regulation affecting the conditions of employment.

Who can file a Grievance

- Bargaining unit employee
- Group of employees
- Union representative
- Management

Grievance Procedure

- Initiate within timeframes specified in the appropriate Negotiated Agreement
- Three internal steps toward resolution.
- Time limits/frames important.
- Witnesses, employees will not be forced.
- Arbitration
 - 3rd Party decides your business.

Grievance Checklist

- Prepare to listen
- No need for immediate response
- Union has the right to be present
- Grievance content
 - Issue
 - Provision(s) of agreement
 - Action desired
- Know time frames
- Investigate and consider
- Use Staff Resources
 - CPAC
 - Legal
 - Management Comm.
- Issue decision
- Advise chain of command

Grievance Process

- Informal Resolution/ADR
 - Oral notification to supervisor
 - Within 15 work days
- Formal Grievance
 - Step 1:
 - Filed with Director in writing
 - Filed within 15 work days
 - Step 2:
 - Heard by designated senior manager
 - Both union and management present case

Arbitration

- Evoked by Union
- Within 30 calendar days of Step 2 decision
- Parties present case to arbitrator through use of exhibits and written briefs
- Arbitrator issues written decision and order

Exceptions to Procedure

- Formal disciplinary actions
- Union management disputes

Grievance Over Discipline

- All discipline grievances go immediately to third step.
 - Reprimand
 - Suspension
 - Reduction in grade
 - Removal

Union-Management Disputes

- Grievances between Union and Management
- No individual employee issue involved
- Generally related to interpretation of contract language
 - CPAC Director
 - Assigned Manager

MANAGEMENT SUPPORT STRUCTURE

Do I Have to Go It Alone??

STAFF SUPPORT SOURCES

- WHO ARE THEY
 - CPAC
 - RIA Legal Group
 - The Management Committee
- HOW CAN THEY HELP
 - Advise on actions before implementation
 - Assist in problem solving after implementation
 - Contract/Regulation Interpretation
 - Smooth the trail

CPAC Support

- Labor Relations Specialist

- Grievance Advice
- Change in Working Conditions
- Formal Discussions
- Investigations
- Office Moves
- Changes in Policy, Practices

- Sounding Board
- I & I Bargaining
- Research previous cases
- Contract Interpretation
- Assure consistency of actions
- Run interference
- Smooth the trail

LEGAL GROUP

- The Labor Counselor
 - Grievance & Disciplinary Advice
 - Ethics Counseling
 - Sounding Board

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CHANGES IN CONDITIONS OF EMPLOYMENT

Do I Have To Tell The Union?

CHANGES IN CONDITIONS OF EMPLOYMENT

- Defined in 5 USC 7103(a)(14)
 - Also restated in Article 2
 - “Personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions,”
- Excludes
 - Political activities
 - Classification of positions

DUTY TO BARGAIN

- Specified in 5 USC 7117(a)(2)
 - Also restated in all Negotiated Agreements
- Requires Notice & Negotiations Prior to Implementation of Any Change
 - I & I Bargaining if within management's rights
 - Substantive Bargaining if wholly negotiable
- If Can't Reach Agreement - Submit to 3rd Parties for Assistance

THE NEGOTIATIONS

- Meet With The Union & Proponent
 - Every effort made to resolve at lowest level
- Union Requests Formal Negotiations
 - Proposals and counter proposals exchanged
 - Information requests answered
 - Negotiating committees meet
- If Agreement is Reached - Sign MOA
- If Impasse Results - 3rd Party's Assistance

CHANGES IN CONDITIONS OF EMPLOYMENT

- Advance Notice to The Union
- Negotiate as Appropriate
- CAN NOT IMPLEMENT UNTIL
PROCESS IS COMPLETED
- Not Providing Advance Notice and
Negotiating is an UNFAIR LABOR
PRACTICE

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PARTNERSHIP COUNCIL

The Alternative Method of
Conducting
Labor/Management Relations

Labor Management Partnership Council (LMPC)

- Established by Ex. Order 12871
 - President Bush Rescinded EO 12871
 - No Requirement to Change Structure
 - Continues to meet the parties' needs
- Provides Methodology for Enhanced L/M Relationship
- An Alternative to the Often Litigious and Adversarial L/M Relationship
- Identify Problems - Craft Solutions
- Forum for Collaborative Problem Solving

LMPC

- Traditional and Partnership Paths Run on Parallel Tracks
- Not mutually exclusive of each other
- Different means to reach the same point
- Customer Satisfaction, Improved Efficiencies, Mission Accomplishment

Ombudsman Role

Extension of DCG Employment Philosophy

- “Management’s Face” re: Union/Employee dispute issues
- Central Point of Contact for:
 - MER issues
 - Labor issues
 - Employment disputes

Ombudsman Role (con't)

Liaison between:

- Management & Union
- Management & CPAC
- Union & CPAC
- Management & other support offices (EEO, etc.)
- Communicate & Facilitate implementation of Command's Leadership Direction

Manages ADR Program in Headquarters

CPAC Role

Ombudsman relationship with CPAC

CPAC responsibilities:

- Management's advisor for personnel issues
- Areas of responsibility
 - Labor
 - Grievances – advise management
 - Staffing
 - Arbitrator – advocate for management
 - MER
 - Tour of duty
 - Discipline
 - Overtime entitlement

Interface

Ombudsman

- Facilitate
- Mediate
- Look for Resolution at informal stage

CPAC

- Advise
- Advocate
- Negotiate

Negotiating Committee

- Ombudsman serves as chair of Negotiating Committee
- CPAC advises committee
- CPAC handles formal questions on negotiability

Grievances

- ADR requested – Ombudsman assigns mediator
- If not settled, grievance filed
- Arbitration – CPAC prepares case

Questions, Thoughts, Concerns

?

Management Employee Relations

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Employee Relations Advice

to Management

- ✓ Discipline/Adverse Actions
- ✓ Performance Management
- ✓ Leave Administration
- ✓ Grievances/Appeals

Discipline

Regulations/Statutes

- ✓ 5 U.S. Code, Chapter 75
- ✓ 5 Code of Federal Regulations, Part 752
- ✓ Army Regulation 690-700, Chapter 751
- ✓ Rock Island Arsenal Regulation 690-5
- ✓ Negotiated Agreement

Discipline

- ✓ Counseling
- ✓ Progressive Discipline
- ✓ Adverse Actions

Basic Principles in Taking Disciplinary Actions

- ✓ Sound Reasons
- ✓ Sufficient & Appropriate Factual Information Evidence
- ✓ Appropriate Remedy for Correcting Deficiency
- ✓ Afford Employee Certain Rights

Characteristics of Constructive Discipline

- ✓ For Such Cause as Will Promote the Efficiency of the Service
- ✓ Timely
- ✓ Consistent
- ✓ Like Penalties for Like Offenses
- ✓ Non-Discriminatory

Counseling

- ✓ Explain Concern
- ✓ Listen to Employee
- ✓ Make Sure Your Expectations are Clear
- ✓ Caution Employee

Progressive Discipline

- ✓ Corrective in Nature
- ✓ Discussions
- ✓ Counseling
- ✓ Reprimands
- ✓ Suspensions of 14 Calendar Days or Less

Adverse Actions

- ✓ Suspensions of More Than 14 Calendar Days
- ✓ Reduction in Grade
- ✓ Reduction in Pay
- ✓ Removal
- ✓ MSPB Appeal Rights

Most Recent Discipline Issues

- ✓ Time Fraud
- ✓ Misuse of Government computer
- ✓ Leave Issues
- ✓ Performance

Examples of More Serious Infractions - Enhanced Penalty

- ✓ Army Policy - Removal
 - Intentionally Dishonest Conduct
 - Theft
- ✓ Workplace Violence
- ✓ Alcohol/Drug Related Offenses
- ✓ Ethics Violations

Medical Cases

- ✓ Work related VS Non Work related
- ✓ Need for current medical info
- ✓ Coordination with US Army Health Clinic
- ✓ Job Placement?
- ✓ Adverse actions?

Medical Cases cont.

- ✓ When requesting medical identify
 - ✓ Why needed
 - ✓ What needed
 - ✓ Who will receive
 - ✓ Where kept
- ✓ How much is enough?
- ✓ 5 CFR 339

Medical Cases cont.

✓ Request –

- ✓ Legitimate need
- ✓ Conduct/performance problems
- ✓ Special consideration requests
- ✓ Insufficient/additional need

✓ Require –

- ✓ RIF
- ✓ OWCP
- ✓ Medical Standards
- ✓ Medical surveillance
- ✓ Physical requirement
- ✓ Reasonable accommodations

Performance Management

- ✓ 5 U.S. Code, Chapter 43
- ✓ 5 Code of Federal Regulations, Part 430
- ✓ Army Regulation 690-400, Chapter 4302
 - Change 1, 16 Nov 98
 - Changes the descriptions of performance required for ratings at the different Successful levels
 - eliminates references to the Senior Rater Profile, which is being discontinued
- ✓ DA Pamphlet 690-400

Performance Management

✓ **Tapes**

✓ **Objectives**

- Employee input
- No requirement for agreement

✓ **Midpoint**

- Face-to-face discussion and counseling

✓ **Input from employee**

✓ **Appraisal**

Awards

- ✓ Army Regulation 672-20
- ✓ There are three types of awards that require processing of a 52
 - Monetary Awards
 - Quality Step Increase
 - Time Off Awards

Monetary Awards

✓ Special Act or Service Award (SSA)

- Given to recognize personal effort
 - On the Spot \$25 - \$500
 - SSA \$250+
 - Tangible/intangible remark must be on 52

✓ Performance Award

- Given in recognition of high level performance for a specific period
- Performance Rating Period and Success Level must be in remarks section of 52

Quality Step Increase (QSI)

An additional within-in-grade increase granted to GS employees (no DA interns) in recognition of high quality performance

- Must be in conjunction with an annual performance appraisal
- The appraisal rating must be exceptional
- Nominations should be submitted (within 30 days) of appraisal
- Appraisal must cover at least 120 days
- Employee may **NOT** receive more than one QSI in any 52-week period
- Approving official must be at least one level above the level of the nominating official

Time Off Award (TOA)

Employees may be granted up to 80 hours of time off during a leave year without charge to leave or loss of pay as an award

- Employees may be granted the time off award for achievement or performance contributing to the Army mission
- The TOA may be used alone or in combination with monetary or non-monetary awards to recognize employees contributions

Time Off Award (TOA)

- The TOA may be granted up to 40 hours for a single contribution
- TOA will be given in increments of no less than one hour
- TOA **DOES NOT** convert to a cash payment under any circumstances
- Must be used within 52 week period

Performance Issues

- ✓ Interview employee/assessment
 - Personal/medical issues?
 - Training needed
- ✓ Counsel
 - Clarify expectations
- ✓ Monitor
 - Periodic reviews

Unsatisfactory Performance

- ✓ Performance Improvement Period (PIP) with formal plan
- ✓ Regular evaluation/discussion
- ✓ Evaluation at end of PIP
- ✓ Success/failure
- ✓ Failure: reassignment, demotion, removal
- ✓ 5 U.S. Code, Chapter 43
- ✓ 5 Code of Federal Regulations, Part 432
- ✓ Army Regulation 690-400

Leave Administration

- ✓ 5 U.S. Code, Chapter 63
- ✓ 5 Code of Federal Regulations, Part 630
- ✓ Rock Island Arsenal Regulation 690-20
- ✓ Negotiated Agreement

Annual Leave

- ✓ Rest and Relaxation
- ✓ Personal Business
- ✓ Emergencies

Annual Leave

- ✓ Use of annual leave is the right of an employee subject to right of the employer to fix the time at which the leave may be taken
- ✓ Normally, approval/disapproval based on workload
- ✓ Supervisor and employee will work to ensure annual leave is not forfeited
- ✓ Employee is responsible for planning and making timely requests for leave
- ✓ Supervisor shall give notification of disposition within 2 days

Restoration of Forfeited Annual Leave

- ✓ Policy
 - Administrative Error
 - Illness
 - Exigencies
- ✓ Responsibilities
 - Supervisors
 - Approving Authority
- ✓ Procedures

Sick Leave

✓ Granted for:

- Medical, dental, optical appointments
- Sickness, injury, pregnancy
- Care of family member who is ill
- Arrangements necessitated by the death of a family member
- Adoption of a child

Procedures

- ✓ Employees responsible for requesting sick leave within 2 hours of beginning of start of shift
- ✓ Establish call-in procedures and make sure all employees are aware of it - *Reminders!*
- ✓ Doctor's certification required for absences over 3 days continuous duration
- ✓ Supervisor should set up system to keep track of attendance

Identifying Sick Leave Abuse

- ✓ Day following payday
- ✓ In conjunction with holiday/RDO
- ✓ Monday/Friday
- ✓ Weather (good or bad)
- ✓ Public/community events
- ✓ Undesirable work to do
- ✓ Used as soon as it is earned
- ✓ Intermittent absences of short duration
- ✓ Same calendar day of the week
- ✓ Second job
- ✓ Days corresponding to spouse's day off

Sick Leave Control

- ✓ Excessive usage and no abuse is indicated:
 - The supervisor will interview to determine reasons for leave usage
- ✓ Excessive usage and abuse is indicated:
 - Counsel in private
 - Supervisor will provide reasons he/she believes there is abuse
 - Annotate on SF 7B Card
- ✓ Normally, employee counseled prior to being placed on leave restriction
- ✓ Leave restriction remains for 90 days
 - After 90 days extend to rescind based on leave usage during restriction
 - May place on sick leave restriction prior to counseling for flagrant abuse

Identify Those Whose Absence May Result From:

- ✓ Alcohol or drug abuse
- ✓ Personal problems
- ✓ Financial problems

**Contact your servicing
employee relations specialist
and EAP representative**

Summary of Supervisory Controls

- ✓ Be aware of employees' attendance
- ✓ Track all attendance of employees
- ✓ Analyze usage
- ✓ Relate attendance to performance
- ✓ Conduct interviews to ascertain if medical problem exists
- ✓ Counsel if necessary
- ✓ Restrict use of leave
- ✓ Charge unauthorized absences to AWOL
- ✓ Take disciplinary action if warranted

Family Friendly Leave Act (FFLA)

- ✓ Three-year test - 2 December 1994
 - Never formally passed as legislation but has been extended indefinitely
- ✓ All full-time employees authorized up to 40 hours sick leave each year
- ✓ A full-time employee maintaining an 80 hour balance may use an additional 64 hours
- ✓ Purposes:
 - Give care or otherwise attend to a family member having:
 - Illness, injury, medical, dental or optical appointment or other condition *or*
 - Any arrangements necessitated by the death of a family member

Family Friendly Leave Act - Cont.

- ✓ Family member defined as:
 - Spouse
 - In-laws
 - Children and step children
 - Under 18
 - 18 and older incapable of self care due to mental or physical disability
 - Brothers and sisters
 - Parents
 - Any individual related by blood or affinity whose close relationship to the employee is the equivalent of a family relationship

Family Friendly Leave Act - Cont.

- ✓ Certification Procedures:
 - Follow RIAR 690-20 or applicable contract(s)
- ✓ Must be tracked by supervisors to assure limits set by statute are not exceeded

Sick Leave for Adoption

- ✓ May be used for:
 - Appointments
 - Travel
 - Meetings
 - Training
 - Medical visits
- ✓ May be used after placement of child only if agency orders or requires parent to stay home with child
- ✓ If employee has insufficient sick leave, advance may be requested

Leave Transfer Program

- ✓ Employee or his/her family member faces medical emergency
- ✓ Medical emergency expected to result in at least 24 hours LWOP
- ✓ All leave must be depleted
- ✓ Advanced sick or annual leave may be requested at same time

Leave Transfer - Cont.

- ✓ Employee or person designated to act on his/her behalf makes application via SIORI Form 690-44
- ✓ Application accompanied by doctor's certificate giving beginning and ending dates of emergency
- ✓ Requires Director's approval
- ✓ Supervisor publicizes if permission given
- ✓ Donors use SIORI Form 690-43 to donate annual leave

Leave Transfer - Cont.

- ✓ Leave must be accrued before it can be donated
- ✓ Minimum donation is one hour
- ✓ Leave may not be donated to immediate supervisor
- ✓ Maximum donation - no more than 1/2 annual leave accrued in a year
 - (exceptions for family members)
- ✓ Donations may be accepted from other installations

Advanced Leave

- ✓ Advance sick leave
 - May advance up to 240 hours
 - Doctor's certification required
 - Director approves/disapproves
- ✓ Advanced annual leave
 - May advance amount that will be earned in remainder of leave year
 - Director approves/disapproves
- ✓ Advances requested via SIORI Form 690-18

Leave Without Pay (LWOP)

- ✓ APPROVED absences without pay
- ✓ Granted in increments of 15 minutes
- ✓ No entitlement - except
 - Disabled veteran seeking medical treatments
 - Reservists
 - Workers Comp cases
- ✓ Consider benefits to the organization
- ✓ Subject to abuse
- ✓ Supervisor may approve up to 40 hours via SF71
- ✓ Over 40 hours must be approved/disapproved by Director via SIORI Form 690-18

Family and Medical Leave Act (FMLA) - 1993

- ✓ Entitlements to 12 weeks of LWOP per year for
 - Birth of a child
 - Adoption or foster care
 - Serious health condition of family member
 - *Hospitalization *Diabetes
 - *Heart disease *Cancer
 - Family members include
 - *Parent *Spouse
 - *Son/Daughter (under 18 or incapable of self care due to mental or physical disability)
 - Serious health condition of employee
- ✓ Certification required
- ✓ Jobs benefits and protection

Expansion of Sick Leave for Family Care - June 2000

- ✓ Employee may use a total of 12 weeks of accrued sick leave each year to care for family member with a serious health condition
- ✓ Paid leave may not be retroactively substituted for LWOP
- ✓ Total 480 hours entitlement
 - ✓ 12 weeks under this entitlement and
 - ✓ 104 hours under FFLA

Expansion of Sick Leave for Family Care – June 2000 cont.

- ✓ Dual entitlement
 - 12 weeks sick leave (leave year) and
 - 12 weeks LWOP under FMLA (1 year from event)
- ✓ Must maintain balance of 80 hours
- ✓ Reinforced that FMLA applies to “serious health condition”
 - Includes pregnancy, childbirth or prenatal care
 - Expansion reinforced that this does not entitle employee to use sick leave to care for a healthy newborn child, once the mother’s period of incapacitation ends

Excused Absence

- ✓ Absence from duty without charge to leave
- ✓ Approved by Commander or Head of Agency
- ✓ Excused Leave - Administrative Leave
- ✓ Standard reason listed in RIAR 690-20, Chapter 5

Most Common Reasons for Admin/Excused Leave

- ✓ Blood donations
- ✓ Employment interviews
- ✓ Absences for relocation purposes
- ✓ EEO functions
- ✓ Union sponsored training
- ✓ Infrequent tardiness
- ✓ Group dismissals
- ✓ Special events

Excused Leave for Bone Marrow & Organ Donation

- ✓ Thirty days paid leave per calendar year to serve as an organ donor
- ✓ Seven days paid leave per calendar year to use for donation of bone marrow
- ✓ In both cases, leave includes reasons related to donation; i.e., testing and appointments prior to actual procedures

Military Leave

- ✓ For members of reserve components of the Armed Forces
- ✓ Absences due to active military duty and inactive duty training
- ✓ DA policy
- ✓ 15 days per fiscal year
- ✓ No more than 15 days may be carried over to the next fiscal year
- ✓ Leave charged in 1 hour increments
- ✓ Intervening weekends are no longer charged to military leave
- ✓ 22 days for those involved in enforcement of the law

Coverage...

- ✓ Active Duty Training (on Orders).
- ✓ Inactive Duty Training (Drills).
- ✓ Engaging in field or coast defense training.



How It Has Changed

FORMERLY:

- ✓ Charged in whole day increments.
- ✓ 15 days per work year.
- ✓ Non duty (weekend) days were chargeable.

NOW:

- ✓ Charged in 1 hour increments.
- ✓ 120 hrs per normal work year. (15 days X 8 hrs). Prorated for Part-time/unusual schedules.
- ✓ Weekends/Holidays not chargeable.

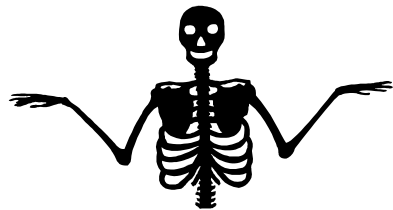


Court Leave

- ✓ Absences for attending court as a witness in connection with any judicial proceeding to which the U.S., the District of Columbia, or a state/local government is a party
- ✓ Absence to serve on jury duty

EXCUSED ABSENCE For

PREVENTIVE HEALTH SCREENING



EXECUTIVE ORDER PROVISIONS:

Agencies are to allow maximum use of flexibilities for health screening.

- Four hours excused absence per year for screening, **IF** you have less than 80 hours accrued sick leave.



MAY BE USED FOR AGENCY SPONSORED...

- ✓ Nutrition education programs.
- ✓ Health promotion and screening activities
- ✓ Smoking cessation.
- ✓ Annual health fairs.
- ✓ Encouraged to use leave/work schedule flexibilities to attend non-Agency sponsored activities.

MAY NOT BE USED FOR:

- ✓ Accompanying family members for screening activities or stress tests.
- ✓ Children's immunizations.
- ✓ Flu shots.
- ✓ Follow up treatment of diseases or conditions found during screening.*

***MAY** be used for later screening to detect recurrences of disease/conditions.



Appeals to Merit Systems Protection Board

- ✓ 5 U.S. Code, Chapter 77
- ✓ 5 Code of Federal Regulations, Part 1201
- ✓ Adverse Actions (removals, suspensions over 14 calendar days, demotion, furlough, RIF)
- ✓ Case file preparation
- ✓ Submission of all relevant information
- ✓ Hearing (if requested)
- ✓ Settlement Discussions
- ✓ Petition for Review

Department of Defense (DoD) Administrative Grievance System

- ✓ For employees not in bargaining unit
- ✓ For bargaining unit employees who are grieving an issue that falls outside the scope of the negotiated grievance
- ✓ Problem solving process (optional)
- ✓ Formal grievance to designated deciding official
- ✓ DoD guidance summarized in RIAR 690-11
- ✓ Decision at formal level is final within DoD (unless decision is to cancel)